UNITED STATES DISTRICT COURT 1 2 DISTRICT OF NEVADA 3 4 Evier Paez, 2:16-cv-02737-JAD-NJK 5 Petitioner Order 6 [ECF Nos. 1, 2, 3] v. 7 Dwight Neven, et al., 8 Respondents 9 10 Nevada state prisoner Evier Paez petitions for a writ of habeas corpus and moves to proceed in forma pauperis, 1 for leave to file an oversized petition, 2 and for appointment of 11 counsel.³ Paez did not attach the appropriate documentation to his pauper application to allow 12 13 me to properly evaluate it, so I deny the application without prejudice to his ability to refile in 14 accordance with the local rules. I also deny his motion for leave to file an oversized petition as 15 unnecessary because there is no page limit under Local Rule LSR 3-2(b). And because Paez has demonstrated that he is capable of articulating his claims, due process does not mandate that he 16 17 be represented by counsel under these circumstances and I decline to appoint him counsel. 18 19 **Discussion** 20 A. In forma pauperis application 21 Paez's pauper application is incomplete. Under 28 U.S.C. § 1915(a)(2) and LSR1-2 of the local rules, Paez must attach both a properly executed financial certificate and an inmate 22 23 account statement for the past six months. He did not attach either. So I deny the application 24 without prejudice to his ability to refile it with the appropriate documentation. Paez must either 25 ¹ ECF No. 1. 26 ² ECF No. 3. 27 28 ³ ECF No. 2.

pay the \$5.00 filing fee or file a properly completed pauper application by October 27, 2017.

B. Oversized petition

Paez asks for permission to file an oversized petition,⁴ and he cites to the Federal Rules of Appellate Procedure. As this is not an appeal, the Federal Rules of Appellate Procedure do not apply. Instead, LSR 3-2 of the Local Rules of Practice applies, which expressly states "there is no page limit with respect to habeas corpus petitions." I therefore deny Paez's motion as unnecessary.

C. Appointment of counsel

Finally, Paez also requests appointment of counsel to pursue his petition for a writ of habeas corpus. There is no constitutional right to counsel for a federal habeas corpus proceeding.⁶ But I have discretion to appoint counsel if the "interests of justice require representation," and I must appoint counsel if the case is so complex that denial of counsel would amount to a denial of due process.⁷ I "must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved." The factors to consider are not separate from the underlying claims but are intrinsically enmeshed with them.⁹

I deny the motion for appointment of counsel. Paez has demonstrated that he can clearly articulate the claims that he believes entitle him to habeas corpus relief, 10 and though some of his claims involve somewhat-complex legal issues, he presents copious, articulate arguments for

⁴ ECF No. 3.

^{22 5} L.S.R. 3-2(b).

⁶ Penn. v. Finley, 481 U.S. 551, 555 (1987).

⁷ See Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986), cert. denied, 481 U.S. 1023 (1987).

⁸ See Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983).

^{27 &}lt;sup>9</sup> *Id*.

¹⁰ ECF No. 1-1.

each of his claims. **Conclusion** Accordingly, IT IS HEREBY ORDERED that Paez's application to proceed in forma pauperis [ECF No. 1] is DENIED without prejudice. Paez has until October 27, 2017, to either pay the \$5.00 filing fee or file a new and complete application to proceed in forma pauperis together with a properly executed financial certificate and an inmate account statement for the past six months. If Paez fails to either pay the filing fee or submit a properly completed new pauper application before this court-ordered deadline, this action will be dismissed without further advance notice. The Clerk of Court is directed to SEND Paez two copies of an in forma pauperis application form for incarcerated persons along with one copy of the instructions for the same. IT IS FURTHER ORDERED that Paez's motion for appointment of counsel [ECF No. 2] is **DENIED** without prejudice. IT IS FURTHER ORDERED that Paez's motion for leave to file an oversized petition [ECF No. 3] is DENIED. DATED: September 26, 2017.